

**SUPREME COURT CALENDAR
SACRAMENTO SESSION
NOVEMBER 4 and 5, 2003**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Stanley Mosk Library and Courts Building, Sacramento, California, on November 4 and 5, 2003.

TUESDAY, NOVEMBER 4, 2003—1:00 P.M.

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|-----|---------|--|
| (1) | S100360 | People v. Posey |
| (2) | S105798 | Bonnell v. Medical Board of California |
| (3) | S094467 | Shively v. Bozanich |
| (4) | S113433 | People v. McCall |

WEDNESDAY, NOVEMBER 5, 2003—9:00 A.M.

- | | | |
|-----|---------|--|
| (5) | S105508 | Estate of Ford |
| (6) | S111323 | Saint Agnes Medical Center v. Pacificare of California |
| (7) | S105734 | People v. Barragan, et al. |

1:30 P.M.

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|------|---------|--|
| (8) | S111253 | McDonald v. Gourley |
| (9) | S104995 | People v. Toney |
| (10) | S032146 | People v. Joseph Danks <i>[Automatic Appeal]</i> |

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT CALENDAR
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, NOVEMBER 4, 2003—1:00 P.M.

(1) People v. Posey, S100360

#01-143 People v. Posey, S100360. (A090989; unpublished opinion.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case includes the following issues: (1) Is venue an issue of fact to be decided by the jury or a question of law to be decided by the trial court? (2) May venue in a criminal prosecution for sale of an unlawful drug properly be established in a county into which the defendant allegedly made a telephone call to negotiate the drug transaction, when the actual sale of the drug took place in an adjacent county?

(2) Bonnell v. Medical Board of California, S105798

#02-94 Bonnell v. Medical Board of California, S105798. (C038019; 96 Cal.App.4th 654.) Petition for review after the Court of Appeal reversed the judgment in a proceeding for writ of administrative mandate. This case presents the following issue: Does Government Code section 11521(a), as amended in 1987, authorize an administrative agency to issue a stay of up to 30 days for the purpose of evaluating a petition for reconsideration that has already been filed, or does the statute limit such stays to a period no greater than 10 days?

(3) Shively v. Bozanich, S094467

#01-35 Shively v. Bozanich, S094467. (B130905, B133983; 85 Cal.App.4th 363.) Petition for review after the Court of Appeal reversed a summary judgment in a civil action. This case presents the following issue: In a libel action that is based on the republication of an allegedly defamatory statement in a book that is circulated to the general public, does the statute of limitations begin to run when the book is first generally distributed to the public or is the commencement of the statute of limitations delayed until the plaintiff discovers or reasonably should have discovered the publication?

(4) People v. McCall, S113433

#03-40 People v. McCall, S113433. (C038946; 104 Cal.App.4th 1365; Trinity County Superior Court; 01F004B.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Does Health and Safety Code section 11383(f) create an impermissible mandatory presumption by providing that “possession of essential chemicals sufficient to manufacture hydriodic acid, with intent to manufacture methamphetamine, shall be deemed to be possession of hydriodic acid” for purposes of the offense of possession of hydriodic acid with the intent to manufacture methamphetamine?

WEDNESDAY, NOVEMBER 5, 2003—9:00 A.M.

(5) Estate of Ford, S105508

#02-96 Estate of Ford, S105508. (A094755; 96 Cal.App.4th 386.) Petition for review after the Court of Appeal affirmed an order in a probate proceeding. This case presents the following issue: What are the requirements and standard of proof for establishing a claim of equitable adoption?

(6) *Saint Agnes Medical Center v. Pacificare of California*, S111323

#03-16 Saint Agnes Medical Center v. Pacificare of California, S111323.

(F039699; 102 Cal.App.4th 647; Fresno County Superior Court; 01CECG01243.)

Petition for review after the Court of Appeal reversed an order denying a motion to compel arbitration. This case presents the following issue: Does a party that attempts to repudiate a contract thereby waive, as a matter of law, its right to compel arbitration under the arbitration clause of that contract?

(7) *People v. Barragan, et al.*, S105734

#02-80 People v. Barragan, et al., S105734. (D036697; unpublished opinion.)

Petition for review after the Court of Appeal reversed and remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Do the doctrines of res judicata or law of the case bar retrial of a prior conviction allegation after a reversal on appeal for insufficient evidence?

1:30 P.M.

(8) *McDonald v. Gourley*, S111253

#03-05 McDonald v. Gourley, S111253. (B152695; 102 Cal.App.4th 568; Los Angeles County Superior Court, BS061075.) Petition for review after the Court of Appeal reversed the judgment in a proceeding for writ of administrative mandate. This case presents the following issue: Does Vehicle Code section 13380 limit the Department of Motor Vehicles to reviewing the arresting officer's sworn report when conducting an administrative review of the suspension of a driver's license following an arrest for driving under the influence?

(9) People v. Toney, S104995

#02-66 People v. Toney, S104995. (C035564; 95 Cal.App.4th 941.) Petition for review after the Court of Appeal affirmed an order dismissing a criminal proceeding. This case presents the following issue: If the magistrate at a preliminary examination grants a defendant's second motion to suppress evidence (Pen. Code, § 1538.5) and dismisses a second criminal complaint for insufficient evidence (Pen. Code, § 871), may the People move to reinstate the complaint (Pen. Code, § 871.5) or is such a motion barred by the "two dismissals" rule of Penal Code section 1538.5(p) and/or section 1387?

(10) People v. Joseph Danks, S032146 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.